



**Billing Code: 5001**

## **DEPARTMENT OF DEFENSE**

### **Office of the Secretary**

**[Docket ID: DOD-2021-OS-0055]**

### **Request for Information Related to IP Evaluation and Valuation Methods and Techniques**

**AGENCY:** Office of the Deputy Assistant Secretary of Defense (Acquisition Enablers), Department of Defense (DoD).

**ACTION:** Request for information.

**SUMMARY:** The Secretary of Defense is soliciting information from the public (including, but not limited to, the private sector, academia, and other interested parties) related to Intellectual Property (IP) evaluation and valuation methods and techniques.

**DATES:** The due date for submitting comments is [INSERT 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Mail: The DoD cannot receive written comments at this time due to the COVID-19 pandemic. Comments should be sent electronically to the docket listed above.

*Instructions:* All submissions received must include the agency name, docket number and title for this Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Mr. George Winborne, Communications,

Knowledge and Performance Management Lead, Intellectual Property Cadre, Office of the USD(Acquisition & Sustainment), at 202-815-3995, or e-mail: george.o.winborne.civ@mail.mil.

**SUPPLEMENTARY INFORMATION:**

The DoD has been authorized to carry out a Pilot Program on IP Evaluation for Acquisition Programs under Section 801 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2020. To gain a better understanding of IP valuation and evaluation strategies and recommendations, the Pilot Program seeks to obtain the views of industry, academia, and the public.

Given the broad functional, technical, and operational considerations of the DoD and the assessment scope spanning IP evaluation and valuation methods and techniques, interested parties do not need to respond to every category of information requested or question and may choose to offer additional information pertinent to the topic in the manner or format they prefer.

Interested parties may respond to questions pertinent to their organization's technical focus, expertise, and evaluation and/or valuation capabilities. Submitted responses are entirely voluntary, may be unstructured, and should include only public information (e.g., do not include proprietary, business sensitive, or other forms of confidential information). Although not required, respondents are encouraged to identify the industry, academic, or occupational sector to which they belong.

The following guidance applies generally to all responses to questions in topic areas (1) through (6) below.

A. Each response should consider and identify the extent to which the response may be limited or otherwise affected by—

- The particular industry or academic sector;
- The particular technologies involved;
- The type of IP protections governing the technology;

- The particular type of contract or contracting vehicle used;
- Whether your organization is responding as an IP/technology purchaser, seller, or both; and;
- Whether your organization is a prime contractor, subcontractor, or both.

B. Responses should include only public information (e.g., do not include proprietary, business sensitive, or other forms of confidential information). However, if applicable, the response may indicate that additional responsive information may be available but is not being provided because it is non-public and would be subject to confidentiality restrictions. Preferably, in such cases the response will provide information in a more abstract or generic form that may still provide information responsive to the question, but would not contain any detailed, non-public information.

**(1) Assessment Mechanisms for Program IP Evaluation.**

a. What IP evaluation mechanisms and techniques used by your organization, or your industry or academic sector in general, could be adapted for use in DoD acquisition programs? ☐

Please rank the IP evaluation mechanisms identified in your answer above from the most beneficial to those that are less promising, and provide any relevant examples and rationale for such ranking.

b. What commercially available IP valuation analysis and methods used by your organization, or your industry or academic sector in general, could be adapted for use in DoD acquisition programs?

☐ Please rank the IP valuation analysis and methods identified in your answer above from the most beneficial to those that are less promising, and provide any relevant examples and rationale for such ranking.

a. Please identify any other emerging, innovative, novel, or otherwise “outside of the box” methods for IP valuation, prioritization, and IP evaluation techniques not identified above (in

your responses to questions 1a. or 1b.) that could be adapted for use in DoD acquisition programs.

b. Please identify acquisition planning and technology assessment techniques used by your organization, or your industry or academic sector in general, to analyze the use of a commercial product or service or non-developmental item as an alternative to acquiring a product or service that must be specifically developed for a particular DoD acquisition program.

## **(2) Development of Cost-effective IP Strategies**

a. What does your organization, or your industry or academic sector in general, consider best practices for utilizing IP valuation and evaluation methods to develop cost-effective IP strategies?

b. What factors should DoD consider in developing IP strategies that plan for uncertainties (e.g., design, requirement changes; emergence of disruptive technologies; selection of particular vendors; defining the sustainment strategy) associated with predicting downstream events, and for identifying appropriate flexibility and other potential options, when these uncertainties become more defined?

## **(3) Assessment and Management of IP Value and Costs.**

a. Given the specialized mechanisms governing IP acquisitions in the national defense mission space, how can the DoD best identify, assess, and validate the value of different kinds of IP across the acquisition lifecycle?

## **(4) Cross-Functional Team of Subject Matter Experts.**

a. Does your organization, or your industry or academic sector in general, utilize a designated group or team of subject matter experts to identify and manage IP issues on behalf of the organization (e.g., an IP Management Team; or a cadre of cross-functional subject matter experts analogous to that required for DoD at 10 U.S.C. 2322(b))?

b. If so, how is such team or group structured, and what functional areas of subject matter expertise are represented (e.g., intellectual property, law, engineering, contracting, program management, product support and sustainment, financial analysis)?

**(5) Engagement with the Private Sector.**

a. In conducting the Section 801 Pilot Program, how can the DoD best engage the public (including but not limited to the private sector, academia, and other interested parties) to support and inform the development of IP strategies?

b. In general, what processes and procedures can the DoD implement to enable its acquisition programs to better engage with interested parties in identifying appropriate IP evaluation methods in the development of IP strategies, preservation of program flexibility, increases in cost-effectiveness, and improvements in sustainment efforts?

**(6) Future Activities.**

a. What specific topics and questions not discussed above should the DoD consider including as part of future requests for information related to this IP Pilot Program?

b. Please provide any additional comments or recommendations regarding the Section 801 Pilot Program that were not included in your answers above that may improve DoD's acquisition of IP.

c. Although this initial request for information is limited to responses having only publicly available information, the DoD recognizes that respondents may have non-public information that would otherwise have been responsive to one or more questions. Please indicate whether your organization possesses any such non-public information (e.g., proprietary, business sensitive, or other forms of confidential information) that your organization may be willing to share with the DoD in support of this IP Pilot Program effort in the future, provided that such information could be shared subject to appropriate confidentiality protections. If so, please identify the nature or type of confidentiality protections that would be necessary to allow for such sharing (e.g., use and disclosure authorized only for particular purposes or to particular

categories of organizations or individuals). As discussed, please note that your participation is voluntary and that your responses may be unstructured.

Dated: June 25, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer,

Department of Defense.

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